



ILLINOIS COMMERCE COMMISSION

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Office of General Counsel

December 15, 1993

VIA FEDERAL EXPRESS

Mr. William Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

DEC 16 1993
FCC - MAIL

Re: Inquiry into Policies and Programs to Assure
Universal Telephone Service in a Competitive Market
Environment: FCC Docket No. RM 8388

Dear Mr. Caton:

Enclosed please find the Comments of the Illinois Commerce Commission in the above-captioned docket. I have included an original plus five copies of the filing.

I would appreciate your acknowledging receipt of this filing by returning a duplicate time-stamped copy of this letter in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Very truly yours,

Darrell S. Townsley
Special Assistant Attorney General

DST/mtx
Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

DEC 16 1993

In the Matter of

Inquiry into Policies and Programs to
Assure Universal Telephone Service in
a Competitive Market Environment

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RM 8388

FCC - MAIL

TO: THE COMMISSION

Comments of the
Illinois Commerce Commission

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December 16, 1993

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Summary

The Illinois Commerce Commission (ICC) supports the petition filed by MFS Communications, Inc., and agrees that further inquiry into interstate universal service policies and programs is necessary as competition increases. A number of components of interstate universal service policies should be examined, including the services or user groups for which interstate universal service support may be appropriate, the amount of any required interstate subsidy, administration of interstate universal service subsidies, and the sources and dissemination of interstate universal service funds. Proper reflection in local exchange carrier rates of any universal service support shifts should be ensured. In these Comments the ICC has identified certain issues, in addition to those discussed by MFS, that should be addressed. The information gathered in an inquiry could be useful in existing interstate dockets and could aid the FCC in determining whether a Notice of Proposed Rulemaking would be an appropriate next step.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Inquiry into Policies and Programs to)
Assure Universal Telephone Service in)
a Competitive Market Environment)

RM 8388

Comments of the
Illinois Commerce Commission

I. Introduction

The Illinois Commerce Commission (ICC) respectfully submits its comments to the Federal Communications Commission (FCC) in the above-captioned matter. The ICC is the state regulatory body charged with the regulation of investor-owned telecommunications carriers in Illinois and has a great interest in federal universal service policies and programs that affect Illinois telecommunications consumers. MFS Communications Company, Inc. (MFS) filed a petition with the FCC on November 1, 1993, requesting that the FCC initiate, on an accelerated basis, a Notice of Inquiry to determine future policies for the promotion of universal telephone service in a competitive market. MFS also requests that the FCC convene an en banc hearing to obtain information and recommendations from a wide range of interested parties.

MFS believes that the assurance of universal service is "the single most important

public policy issue" that the FCC will face as local exchange markets become increasingly competitive and that universal service and competition are highly compatible, not inherently inconsistent. MFS expresses some skepticism at the local exchange carrier (LEC) arguments that increasing local competition will undermine the existing subsidy flows to assure universal service. MFS finds it essential that the FCC determine "what form and amount of subsidy is really necessary to preserve universal service" and establish "a secure, competitively neutral and equitable source of funding for that subsidy" (MFS Petition at 2).

II. The ICC Agrees That, with Increasing Competition, Further Inquiry Into Universal Service Policies and Programs is Necessary.

Universal service issues affect both the state and federal jurisdictions and are being addressed in several forums. MFS cites other pending FCC activities in which universal service issues arise: CC Docket 80-286, in which the interstate Universal Service Fund mechanism is being reviewed; Ameritech's Customers First Plan; and the access charge reform proposals by the United States Telephone Association (USTA), the National Association of Regulatory Utility Commissioners (NARUC), the FCC Staff and others.¹ MFS believes that universal service issues should be considered separately

¹ The ICC has filed comments in several of the FCC dockets MFS cites, as follows:

In the Matter of A Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, DA 93-481. "Comments of the Illinois Commerce Commission," June 10, 1993. "Reply Comments of the Illinois Commerce Commission," July 9, 1993. Motion for Leave to File Late and "Joint Reply Comments of the Illinois Commerce Commission, the Indiana Utility Regulatory

from, and in the early stages of, any overall review of access policies (MFS Petition at 7).

The ICC shares MFS' concern that access policies and universal service policies are interrelated and agrees that the time has come for a comprehensive reexamination of the FCC's universal service policies. To be most helpful, a reexamination of interstate access charge rate structures and levels would isolate and quantify the universal service support obtained from interstate access services.

MFS intends to obtain full "co-carrier" status in New York and other states and expects to participate in any universal service programs as a "co-carrier" in the local exchange. MFS filed an application in Illinois for authority to offer local exchange business services in the Illinois Bell and Central Telephone Company territories in Illinois Market Service Area (MSA) One on November 12, 1993. The MFS application raises questions such as (1) what rights and responsibilities are to be given to a "co-carrier" and (2) how those will balance with the rights and responsibilities of the incumbent LECs. Another important issue is (3) how universal service responsibilities will be apportioned in a multiple-carrier environment.

Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio, and the Public Service Commission of Wisconsin," July 15, 1993.

In the Matter of NARUC's Request for a Notice of Inquiry Concerning Access Rules, DA 93-847. "Illinois Commerce Commission Reply Comments Regarding NARUC's Request for a Notice of Inquiry Concerning Access Charges and Discussion of the FCC Staff Working Paper, Federal Perspectives on Access Charge Reform," September 20, 1993.

In the Matter of Amendment of Part 36 of the Commission's Rules on Establishment of a Joint Board, CC Docket No. 80-286. "Comments of the Illinois Commerce Commission," October 6, 1993.

The ICC notes that universal service issues were addressed in the Administration's recent National Information Infrastructure (NII) proposal² and are being explored further by the National Technical Information Administration (NTIA). The ICC believes that additional inquiry by the FCC can be beneficial. For example, current and proposed interstate universal service mechanisms entail ratemaking and other regulatory mechanisms within the FCC's oversight and regarding which the FCC's Staff has considerable expertise.

In addition to federal efforts, the state regulatory commissions have instituted a variety of intrastate programs and mechanisms designed to further universal service goals. For example, Illinois has an intrastate Universal Service Fund to mitigate the impact which its decision to eliminate the intrastate carrier common line charge could otherwise have had on higher cost LECs in Illinois. For low income customers, a lifeline assistance program funded by the National Exchange Carrier Association (NECA) reduces the initial installation charge and a Universal Telephone Service Assistance Program funded by voluntary customer donations provides further reductions in the installation charge and/or a waiver of all or a portion of the subscriber's local exchange service obligation.

The NARUC has initiated a Universal Service Work Group to examine the evolving definition of universal service through a collaborative process among representatives of interested parties. As the NARUC has recognized, an issue which the

² Information Infrastructure Task Force, "The National Information Infrastructure: Agenda for Action," NTIA NII Office, Washington D.C., September 1993.

FCC should address if it pursues a Notice of Inquiry as MFS has requested is how the various policymakers can best coordinate their efforts in developing and implementing universal service policies.³ Coordination of the various programs would help ensure nationwide implementation while minimizing overlap or duplication of subsidies.

In light of the importance of universal service and the pressing need to reassess current interstate mechanisms, the ICC supports the MFS petition for a Notice of Inquiry. However, as described in these comments and consistent with the NARUC resolution, the ICC recommends that the Notice of Inquiry gather information on universal service issues in a more comprehensive manner than addressed in the MFS petition. MFS recognized that parties may want to identify other issues not addressed in MFS' petition (MFS Petition at 9).

The ICC recognizes that many issues raised by the MFS Petition and discussed in these Comments may also be relevant to intrastate universal service policies and programs. Since each state is ultimately responsible for ensuring the availability of basic intrastate telecommunications services, any federal initiatives should be crafted in a way that does not constrain the individual states' ability to implement state universal service policies and programs tailored to local circumstances and market conditions. While identifying issues and concerns in these Comments, the ICC does not prejudge in any way any intrastate universal service issues that may come before it in the future.

³ "Resolution on Recent Initiatives to Consider Universal Service Policies," adopted at the 1993 NARUC Annual Meeting, November 17, 1993.

III. The Services or User Groups for Which Universal Service Support May Be Appropriate Should Be Examined.

MFS is correct that a primary issue to be determined in examining universal service policy is the identification of which services or user groups should be eligible for universal service support. MFS points out that "plain old telephone service" (POTS) and, sometimes, local calling are those services which have historically received subsidies. There are questions about whether this list should be expanded to include digital information services, databases or other enhanced services. MFS proposes that subsidy programs should be limited to POTS, including touchtone service. MFS recommends that the universal service goal be the connection of subscribers to the network, not subsidization of particular services provided over the network (MFS Petition at 9-10).

The ICC notes that dissemination of advanced telecommunications technologies and services is a central focus of the NII discussions. As the debate continues, the ICC cautions that there may be a critical distinction between universal availability and universal affordability of new network functionalities and services. In establishing universal service policies, federal and state decision makers must weigh the economic and social benefits of universal affordability and any detrimental effects of subsidies that may be required if such a goal is adopted.

With respect to the user groups that should receive subsidies, MFS points out that some subsidy programs are targeted to users based on need, in particular the Lifeline, Link-up and Telecommunications Relay services. MFS questions the subsidies to "high-cost" LECs through the Universal Service Fund, the NECA Common Line Pool, and

"cost-shifting mechanisms" such as the triple DEM (dial equipment minutes) weighting factor used in determining interstate carrier access rates. The ICC agrees with MFS that existing interstate subsidy mechanisms should be reviewed and that subsidies should be targeted and limited to only the amount that is needed to achieve specified policy objectives. Attention should also be paid to any privacy concerns that may be raised when subsidies are targeted to end users based on need.

IV. The Amount of Required Subsidy Should Be Examined.

MFS recognizes that, while subsidization creates inefficiencies such as the overuse of a subsidized service and underuse of a subsidizing service, it may be necessary to retain some level of inefficiency in order to maintain a ubiquitous telecommunications network. MFS recommends that a subsidy test include revenues provided by local exchange usage, intraLATA toll, and switched access usage. Under a test design such as proposed by MFS, the likely conclusion would be that no subsidy exists for the cited services as a group. The ICC does not necessarily agree that the subsidy test design proposed by MFS provides useful guidance in setting universal service policies⁴. The reality is that usage rates significantly above costs can lead to uneconomic bypass and may not be sustainable in a competitive environment. Because of this, the question of universal service support may be more properly focused on individual services rather

⁴ The issue of how subsidy tests should be structured is currently pending before the ICC.

than a group of services as MFS advocates.

An alternative approach would be an examination of whether a more cost-based rate design would lead to rates for basic services that could jeopardize universal service. This could provide useful information regarding whether and to what extent interstate universal service subsidies are needed. An important component of this inquiry should be the formulation of criteria to determine whether universal service goals have been met.

V. Administration of Interstate Universal Service Subsidies Should be Addressed.

MFS recommends that, rather than NECA which is operated by LECs, a disinterested third party administer all subsidy programs. MFS recommends that the administrator handle all collections and distributions of explicit subsidies as well as the indirect subsidies from services such as the transport interconnection "contribution" charge. MFS believes that an industry forum or committee would be too costly to convene (MFS Petition at 17-18). A Notice of Inquiry would be a useful forum in which to gather information regarding whether an industry-wide committee or a disinterested third party would be the appropriate administrator of interstate universal service programs.

VI. The Sources and Dissemination of Interstate Universal Service Funds Should Be Investigated.

The addition of new players in local exchange markets and increasing competition in interexchange markets require a rethinking of universal service support mechanisms. The ICC has previously recommended that the responsibility for universal service be placed on all market participants.⁵

MFS proposes a system with these characteristics: (1) all telecommunications service providers will participate regardless of the type of service provided; (2) every carrier's universal service obligation will be computed annually based on a nondiscriminatory method, such as a percentage of annual telecommunications service revenues; (3) carriers that provide services that are determined to be subsidized would grant credits to eligible end users and these credits would be used to offset the carriers' universal service obligations; and (4) carriers that do not provide services eligible for credits or that grant credits less than their assessed obligation amount would make a cash payment to the fund administrator, who would distribute the funds to carriers that granted credits in excess of their obligation amount.

The ICC finds this proposed system worth investigating in a Notice of Inquiry. The concept that universal service policies can be met through a variety of providers and technologies (e.g., copper, fiber, cable and/or wireless) and that all providers should be

⁵In the Matter of Expanded Interconnection with Local Telephone Company Facilities, FCC CC Docket No. 91-141, Comments of the Illinois Commerce Commission, January 12, 1993, p. 11.

eligible for any allowed subsidies is an intriguing one which deserves further study. The ICC supports the principle that any universal service obligation should be assessed on all market players in a manner that does not cause unreasonable competitive advantages or disadvantages to individual participants. Further, any subsidies should be carefully limited and targeted. We note, however, that the proposed mechanism may not address adequately the "high-cost" company issue.⁶ It must be determined whether such "high-cost" needs do exist and to what extent such needs should be supported by other market players. An important criterion is that universal service subsidies should be structured to provide incentives to companies to cut their costs and to operate efficiently. These issues should be investigated further.

VII. Proper Reflection in LEC Rates of Any Universal Service Support Shifts Should Be Ensured.

MFS does not discuss how LEC rates may need to be adjusted if universal service mechanisms are restructured. The FCC's Notice of Inquiry should ask parties to address what ratemaking changes would be appropriate, e.g., for price cap or average cost LECs, to ensure that any interstate subsidy reductions or shifts are properly reflected in rates so that LECs do not receive an unintended windfall.

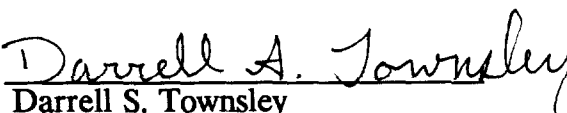
⁶ MFS' analogy to urban and rural real estate prices (Petition at 11) is not convincing. Universal telecommunications service, particularly universal access, is a public good because of externalities, whereas housing is a private good.

VIII. Conclusion

The ICC recommends that the FCC grant the MFS Petition requesting a Notice of Inquiry into interstate universal service policies. MFS has identified a number of concerns about the current universal service mechanisms, and whether they can properly address future needs given the increased level of competition in various telecommunications markets. MFS has raised a number of critical questions and has proposed a framework for a system that is worth reviewing in a Notice of Inquiry. Through these Comments, the ICC has identified certain additional issues that should also be addressed. Undoubtedly, other parties will bring forward further concerns. The FCC should fashion a Notice of Inquiry to gather information on the broad spectrum of universal service issues. This information could be useful in existing interstate dockets and could aid the FCC in determining whether a Notice of Proposed Rule Making would be an appropriate next step.

Respectfully submitted,

ILLINOIS COMMERCE COMMISSION

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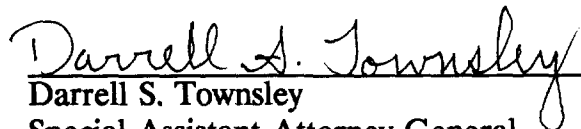
Counsel for the
Illinois Commerce Commission

CERTIFICATION OF SERVICE

DEC 16 1993
FCC - MAIL

I hereby certify that a copy of the foregoing Comments of the Illinois Commerce Commission in FCC Docket No. RM 8388 has been served this 15th day of December, 1993, upon the counsel for petitioner, MFS Communications, Inc., and the Commission's copy contractor, Downtown Copy Center, by first-class mail, postage prepaid.

Dated at Chicago, Illinois this 15th day of December, 1993.


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